

**TAB 3**

Volume: I

Pages: 1-182

Exhibits: 1-5

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

- - - - - x

HEATHER KIERNAN,

Plaintiff,

v.

CA No. 10131MLW

ARMORED MOTOR SERVICES OF AMERICA, INC.

And FRANCESCO CIAMBRIELLO,

Defendants.

- - - - - x

DEPOSITION OF FRANCESCO CIAMBRIELLO

Thursday, April 7, 2005

10:00 a.m.

McLeod Law Offices, P.C.

77 Franklin Street

Boston, Massachusetts 02110

Reporter: Carol A. Pagliaro, CSR/RPR/RMR

Page 46

1 A. The top one, the top right.  
 2 Q. But everything else is in your handwriting?  
 3 A. Yes.  
 4 Q. Turning to the second page, A 0284, where it  
 5 says your name, is that in your handwriting?  
 6 A. Yes.  
 7 Q. And the phone number is your handwriting?  
 8 A. Yes.  
 9 Q. And the address is in your handwriting?  
 10 A. Yes.  
 11 Q. Directing your attention below to where it  
 12 says Confidential, the words Napoli, Italy is your  
 13 handwriting?  
 14 A. Yes.  
 15 Q. Where it says Have you been convicted of a  
 16 felony, the response there is in your handwriting?  
 17 A. Yes.  
 18 Q. The next question underneath, Have you ever  
 19 worked for this company under another name, the  
 20 answer there is in your handwriting?  
 21 A. Yes.  
 22 Q. And nothing else here is in your  
 23 handwriting?  
 24 A. Yes.

Page 47

1 Q. Directing your attention to the third page  
 2 of the exhibit, we have already dealt with the  
 3 bottom part of the page, but is everything above  
 4 where it says Employment Record, is that all in your  
 5 handwriting?  
 6 A. Yes, that's all in my handwriting.  
 7 Q. And I just want to be clear. You went, and  
 8 when you filled out the application were you sitting  
 9 in a particular room when you did that at AMSA?  
 10 A. The garage. As soon as you walk in the  
 11 door, the second door there was a little break room  
 12 over there, and there was a little table I fill out  
 13 the application.  
 14 Q. Did someone give you the application?  
 15 A. Yes.  
 16 Q. Who gave you the application?  
 17 A. Cindy.  
 18 Q. When you got the application was there any  
 19 handwriting on it or was it totally blank?  
 20 A. Totally blank.  
 21 Q. After you filled out the application you  
 22 gave it to Cindy?  
 23 A. Yes.  
 24 Q. But she didn't ask you any questions about

Page 48

1 the application?  
 2 A. No.  
 3 Q. Did she ever call you up on the phone and  
 4 ask you any questions about your application?  
 5 A. No, she didn't.  
 6 Q. Did anyone ever call you from AMSA and ask  
 7 you whether or not -- hold on. Let me finish.  
 8 Anyone from AMSA ever call you and say, We need more  
 9 information for your application?  
 10 A. No  
 11 (Document marked as Exhibit 2  
 12 for identification.)  
 13 Q. You have been handed Exhibit 2. Please take  
 14 a moment to review it. All set?  
 15 A. Yes.  
 16 Q. Have you seen the document that has been  
 17 marked Exhibit 2 before?  
 18 A. I don't understand the question.  
 19 Q. Sure. The document you have just reviewed,  
 20 have you seen that document before?  
 21 A. Yes.  
 22 Q. You have?  
 23 A. That's my signature.  
 24 Q. Oh, okay. And it says 3/29/01?

Page 49

1 A. (Nod.)  
 2 Q. Is that your handwriting?  
 3 A. No.  
 4 Q. Do you know whether or not that is when you  
 5 signed the document?  
 6 A. I don't remember.  
 7 Q. Do you remember whether or not you signed  
 8 this on your first day of employment?  
 9 A. I don't remember. I don't remember.  
 10 Q. Do you recall being told about an  
 11 introductory period of 120 days?  
 12 A. No.  
 13 Q. Do you recall being told whether or not  
 14 there was like a probationary period or something  
 15 during the first few months of your employment at  
 16 AMSA?  
 17 A. I don't remember. I don't remember  
 18 probation, no.  
 19 Q. When you left your employment at AMSA in May  
 20 of 2001, were you under any impression as to whether  
 21 or not you were still in an introductory period or  
 22 under probation?  
 23 A. No.  
 24 Q. When you came to the U.S. were you fluent in

13 (Pages 46 to 49)

04/07/2005

Francesco Ciambriello

Page 50

1 English?  
 2 A. Nothing.  
 3 Q. Nothing. How did you learn?  
 4 A. Talk to people, read a little bit of paper.  
 5 Q. No formal training?  
 6 A. No.  
 7 Q. Have you ever taken English classes here in  
 8 the U.S.  
 9 A. No.  
 10 Q. How would you describe your reading, your  
 11 English reading skills?  
 12 A. Bad.  
 13 Q. Do you read the paper?  
 14 A. Yes.  
 15 Q. English paper?  
 16 A. Yes.  
 17 Q. Do you read English books, English written  
 18 -- books in English?  
 19 A. No, just newspaper.  
 20 Q. When you say it's bad, can you tell me what  
 21 you mean when you say it's bad?  
 22 A. A lot of time I read some words that I don't  
 23 understand what it means.  
 24 Q. Is it fair to say that that is not

Page 51

1 information you tend to volunteer to people? Do you  
 2 know what I mean?  
 3 A. I don't understand the question.  
 4 Q. Without being asked do you tell people that  
 5 you have, in your words, bad English skills?  
 6 A. Yes.  
 7 Q. You do?  
 8 A. Yes.  
 9 Q. Without being asked?  
 10 A. Yes.  
 11 Q. Did you tell AMSA you had bad English  
 12 skills?  
 13 A. No.  
 14 Q. Was Loomis Wells Fargo aware that you had,  
 15 in your words, bad English skills?  
 16 ATTY. ROMANTZ: Objection.  
 17 Q. Did you tell them?  
 18 A. No.  
 19 Q. Are you a citizen of the U.S.  
 20 A. Yes.  
 21 Q. When did you become a citizen?  
 22 A. '78 or '79.  
 23 Q. There is like an exam, so to speak, when you  
 24 are becoming a citizen, isn't there?

Page 52

1 A. Yes.  
 2 Q. Was that strictly a verbal exam?  
 3 A. Yes.  
 4 Q. It wasn't in writing?  
 5 A. No.  
 6 Q. Did you go through any preparation course  
 7 for that examination?  
 8 A. No.  
 9 Q. How did you prepare for that examination?  
 10 A. Nothing. I just went. I just went.  
 11 Q. How did you know -- how did you know about  
 12 the information that was going to be given to you on  
 13 the exam?  
 14 A. I don't.  
 15 Q. What branch office of the INS did you take  
 16 the exam?  
 17 A. Boston.  
 18 Q. Do you remember who your examination officer  
 19 was?  
 20 A. No.  
 21 Q. It was a long time ago. How long was the  
 22 exam?  
 23 A. 5 minutes.  
 24 Q. When you signed this document that has been

Page 53

1 marked as Exhibit 2, did you understand it?  
 2 A. Yes.  
 3 Q. You did?  
 4 A. Yes.  
 5 Q. Did you read it before you signed it?  
 6 A. Yes.  
 7 Q. And you understood it?  
 8 A. Yes.  
 9 Q. There weren't any words in here that you  
 10 didn't understand?  
 11 ATTY. ROMANTZ: Objection.  
 12 A. No.  
 13 (Exhibit 3 marked for identification.)  
 14 Q. What has been put before you has been marked  
 15 as Exhibit 3. It's a document that has been marked  
 16 Confidential, as have been Exhibits 1 and 2, which  
 17 is a part of the defendant's personnel file. If I  
 18 could direct your attention to the bottom of the  
 19 page; is that your signature that appears?  
 20 A. Yes.  
 21 Q. And the date 2/12/01, is that in your  
 22 handwriting?  
 23 A. Yes.  
 24 Q. And above it is your printed name?

14 (Pages 50 to 53)

04/07/2005

Francesco Ciambriello

Page 58

1 A. Yes.  
 2 Q. How about when you were at Imperia?  
 3 A. Yes.  
 4 Q. Cumberland Farms?  
 5 A. No.  
 6 Q. When did you first meet Heather Kiernan?  
 7 A. When she started to work for AMSA.  
 8 Q. Do you recall when that was?  
 9 A. No.  
 10 Q. What was her job when she started working  
 11 there, if you know?  
 12 A. Data entry.  
 13 Q. Do you know what days she worked?  
 14 A. Monday through Friday. No, Monday through  
 15 Saturday.  
 16 Q. 6 days a week?  
 17 A. Yes.  
 18 Q. Do you know what hours she worked?  
 19 A. Sometime she start in the afternoon.  
 20 Q. And other times?  
 21 A. No, I mean Monday -- every day she started  
 22 in the afternoon and when the place close.  
 23 Q. What place?  
 24 A. AMSA.

Page 59

1 Q. Oh, she would go in after the place closed?  
 2 A. No.  
 3 Q. I'm sorry.  
 4 A. She start in the afternoon and the shift end  
 5 when the place close the night.  
 6 Q. If she worked Monday through Saturday, you  
 7 were the weekend supervisor, right?  
 8 A. Correct.  
 9 Q. Did you 2 only work together on Saturdays?  
 10 A. Yes.  
 11 Q. So then you only saw each other one day a  
 12 week, which was Saturday?  
 13 A. No. I was working night.  
 14 Q. You worked at night during the week too?  
 15 A. Yes, yes.  
 16 Q. So your position at AMSA, was that a  
 17 full-time job?  
 18 A. Part-time.  
 19 Q. Part-time. And when you were working at  
 20 AMSA what were your hours?  
 21 A. Five when the place close.  
 22 Q. When would that be?  
 23 A. 9, 10, 11. It depends.  
 24 Q. What about on the weekends?

Page 60

1 A. The weekends it close about 7:00, 8:00,  
 2 depends when the truck coming in.  
 3 Q. When did your shift start on the weekend?  
 4 A. 7:00.  
 5 Q. In the morning?  
 6 A. Yes.  
 7 Q. So you met Ms. Kiernan when she started  
 8 working at AMSA?  
 9 A. Yes.  
 10 Q. Did you know her prior to that at all?  
 11 A. No.  
 12 Q. Where was her work station. Where did she  
 13 physically work at AMSA?  
 14 A. In the vault.  
 15 Q. And when you and her were working together  
 16 was there ever anybody else that worked in the  
 17 facility with you two?  
 18 A. Monday to Friday there was 5, 6 people;  
 19 Saturday we just me and her.  
 20 Q. The 5 or 6 people that worked Monday through  
 21 Friday, do you recall who they were?  
 22 A. Mike, Christopher. It was another 3 people;  
 23 I don't remember their name.  
 24 Q. When you mentioned Mike, was that Mike

Page 61

1 Pascetta?  
 2 A. Yes.  
 3 Q. Did he work Monday through Fridays?  
 4 A. Yes.  
 5 Q. Do you know what his job was?  
 6 A. He was the driver in the day time, and at  
 7 night he pick up extra hours, he work in the vault.  
 8 Q. When you worked during the week were you the  
 9 supervisor?  
 10 A. No.  
 11 Q. On the weekends you were the supervisor?  
 12 A. Correct.  
 13 Q. Did your duties change when -- strike.  
 14 Monday through Friday you weren't a supervisor, on  
 15 Saturday you were, but did your duties change  
 16 between what you did Monday through Friday and  
 17 Saturday?  
 18 A. There was no change.  
 19 Q. Just change in status and control?  
 20 ATTY. ROMANTZ: Objection.  
 21 A. (No verbal response.)  
 22 Q. Yes? Verbal. You have to speak.  
 23 A. Yes.  
 24 Q. Was there a supervisor Monday through

16 (Pages 58 to 61)



04/07/2005

Francesco Ciambriello

Page 62

1 Friday?  
 2 A. Yes.  
 3 Q. Who was that?  
 4 A. Christopher.  
 5 Q. But do you remember Christopher's last name?  
 6 A. No, I don't.  
 7 Q. So he was the supervisor during the week?  
 8 A. (Nod.)  
 9 Q. And you were the supervisor on the weekend?  
 10 ATTY. ROMANTZ: Objection.  
 11 A. (No verbal response.)  
 12 Q. Verbal.  
 13 A. Yes.  
 14 Q. And so basically you assumed his  
 15 responsibilities come Saturday and Sunday?  
 16 A. Yes.  
 17 Q. What responsibilities were those that you  
 18 assumed come Saturday and Sunday?  
 19 A. Send the trucks on the roads, make sure they  
 20 had correct amount of money, what the boss give the  
 21 customer, make sure the building was safe.  
 22 Q. When you say make sure the building was  
 23 safe, what did that entail?  
 24 A. Nothing happening.

Page 63

1 Q. As the supervisor would it be your job to  
 2 make sure, like, the video system was working?  
 3 A. Yes.  
 4 Q. Would it be your job to make sure the doors  
 5 were locked?  
 6 A. Yes.  
 7 Q. If somebody wanted to come into the  
 8 facility, as the supervisor you were the only guy  
 9 that could let them in?  
 10 A. Yes.  
 11 Q. If somebody wanted to leave the facility,  
 12 same thing, you were the only guy that could let  
 13 them out?  
 14 ATTY. ROMANTZ: Objection.  
 15 A. Yes.  
 16 Q. During your training period were you ever  
 17 told about a panic button, or anything like that, at  
 18 AMSA?  
 19 A. Yes.  
 20 Q. What was the panic button or the alarm?  
 21 What was that, if you know?  
 22 A. A button in the wall. If something happen,  
 23 or some robbery, or whatever, you just push the  
 24 button and all police force coming through.

Page 64

1 Q. Was there any manual that went with that?  
 2 A. No.  
 3 Q. Was there written instructions?  
 4 A. No.  
 5 Q. Were you ever told that it could be used for  
 6 anything else?  
 7 A. No.  
 8 Q. Strictly if something was going on in the  
 9 facility that involved a robbery?  
 10 ATTY. ROMANTZ: Objection.  
 11 A. Yes.  
 12 Q. Do you recall when you were first made aware  
 13 about the panic button?  
 14 A. After a month.  
 15 Q. After a month?  
 16 A. Yes.  
 17 Q. Ultimately, and I'm mentioning this as a  
 18 point of reference, there was an incident that took  
 19 place that led to your termination, and that  
 20 incident involved you and Heather Kiernan, right?  
 21 ATTY. ROMANTZ: Objection.  
 22 A. Correct.  
 23 Q. And what I'm going to ask you is, How many  
 24 weekends did you 2 work together alone prior to that

Page 65

1 incident?  
 2 A. 4, 5, 6. A couple of months.  
 3 Q. A couple of months?  
 4 A. Or maybe less. I don't remember exactly.  
 5 Q. I'm going to direct your attention now to  
 6 May 19, 2001. What time did you arrive at the  
 7 facility that day?  
 8 A. 7:00.  
 9 Q. When you arrived at 7:00 was anybody else  
 10 there? Did you relieve anybody or were you the  
 11 first guy there?  
 12 A. First guy in the parking lot.  
 13 Q. Okay. And at what point did Heather Kiernan  
 14 arrive to work that day?  
 15 A. Between 2 and 3.  
 16 Q. Is there a time clock that she would have  
 17 punched?  
 18 A. Yes.  
 19 Q. There was a time clock?  
 20 A. Yes.  
 21 Q. Did you also have to punch a time clock?  
 22 A. No.  
 23 Q. You would have to let her into the building  
 24 when she arrived?

17 (Pages 62 to 65)

04/07/2005

Francesco Ciambriello

Page 66

1 A. Yes.  
 2 Q. Between the time you arrived at 7:00 in the  
 3 morning and the time she arrived in the afternoon,  
 4 did anybody else who was an employee of AMSA show up  
 5 to work that day?  
 6 A. In the morning there were 6, 7 people.  
 7 Q. Were they all drivers?  
 8 A. Driver, messenger, and the manager.  
 9 Q. The manager?  
 10 A. Yes.  
 11 Q. The branch manager?  
 12 A. Yes.  
 13 Q. Was that Jason Khoury?  
 14 A. Correct.  
 15 Q. So he was there that day?  
 16 A. Yes.  
 17 Q. What time did he arrive?  
 18 A. 8:00, 8:30.  
 19 Q. What time did he leave?  
 20 A. Oh, he arrived at 7:00. We arrive all  
 21 together, open the building. He help me get the  
 22 truck out the door, and then after a little while he  
 23 left too.  
 24 Q. So he left at 8:30 in the morning?

Page 67

1 A. Between 8:00 and 8:30.  
 2 Q. Did he come back at all during the day?  
 3 A. No.  
 4 Q. At some point you testified Heather Kiernan  
 5 arrived between 2:00 and 3:00 in the afternoon?  
 6 A. Yes.  
 7 Q. When she arrived was there anyone else at  
 8 the facility?  
 9 A. No.  
 10 Q. At the time she arrived how long had you  
 11 been alone, working alone, in the facility?  
 12 A. 4, 5 hours.  
 13 Q. And what do you do when you are alone in the  
 14 facility? Is there like a TV you can watch?  
 15 A. Just standing by the phone.  
 16 Q. Is there a television that you can watch  
 17 that kind of keeps you --  
 18 A. No.  
 19 Q. Is there a radio?  
 20 A. No.  
 21 Q. What do you do to keep yourself occupied  
 22 during that 4 to 5 hour period?  
 23 A. Nothing.  
 24 Q. Pretty boring? Is it boring?

Page 68

1 A. Yes, boring.  
 2 Q. Is there a place that you would typically  
 3 hang out or would you, during that 4 or 5 hour  
 4 period, just kind of sit in one location?  
 5 A. Yes, sit by the phone.  
 6 Q. So after everyone left, after all the  
 7 drivers and messengers went out, you were alone for  
 8 about 4 or 5 hours, and then Heather Kiernan showed  
 9 up to work?  
 10 A. Yes.  
 11 Q. What was she wearing that day?  
 12 A. I don't remember.  
 13 Q. Prior to that day had you ever had any  
 14 discussion with her about her having a baby?  
 15 A. No.  
 16 Q. Ever have any discussions with her about her  
 17 husband prior to that day?  
 18 A. Yes.  
 19 Q. So what discussions did you have with her  
 20 prior to that day about her and her husband?  
 21 A. She was telling me the husband no love her,  
 22 he no take care of her, he is really bad, watching  
 23 video porn, smoke pot.  
 24 Q. She was saying these things about her

Page 69

1 husband?  
 2 A. To me, yes. And she said she wasn't happy  
 3 and he never make her happy.  
 4 Q. Anything else?  
 5 A. And she want a divorce, and she goes over to  
 6 Jason Khoury, tell him all the time she want a  
 7 divorce.  
 8 Q. She did, she told Jason Khoury she wanted a  
 9 divorce?  
 10 A. She wanted a divorce because she no happy,  
 11 husband no take care of her.  
 12 Q. Was there anything else that she discussed  
 13 with you about her marriage?  
 14 A. Yes.  
 15 Q. What else?  
 16 A. He watch porn all the time and then he jerk  
 17 off.  
 18 Q. So she talked about him watching pornography  
 19 and masturbating?  
 20 A. Yes, and he no pay attention to her.  
 21 Q. Did she ever talk about her son?  
 22 A. Yes.  
 23 Q. What did she say about him?  
 24 A. She asked me a couple of times if she has a

18 (Pages 66 to 69)

04/07/2005

Francesco Ciambriello

Page 138

1 the money is closed.

2 Q. If you wanted to go outside and have a  
3 cigarette with Heather like you did that day, did  
4 you need to do anything special in the building?

5 A. No.

6 Q. So you went home that night, had dinner with  
7 your wife and your mom, and anything else happen  
8 that night?

9 A. No.

10 Q. Went to bed?

11 A. Went to bed.

12 Q. You were on the clock; you were supposed to  
13 come in the next morning at 7:00, right?

14 A. The Sunday?

15 Q. Right.

16 A. No.

17 Q. You were off?

18 A. I was supposed to go in at noontime.

19 Q. Noon on Sunday?

20 A. Noon on Sunday.

21 Q. Not 7:00?

22 A. No.

23 Q. How come so late?

24 A. The truck go out from Marlborough and they

Page 139

1 come in Attleboro to drop off some money.

2 Q. So did you get a phone call to come in  
3 earlier?

4 A. No.

5 Q. And you went to work the next day?

6 A. Yes.

7 Q. At noon?

8 A. Yes.

9 Q. Was Heather there?

10 A. No.

11 Q. Was she supposed to be there?

12 A. No.

13 Q. Who was working with you that day?

14 A. The plant manager or the manager Jason  
15 Khoury.

16 Q. He worked with you that day?

17 A. No, he was there.

18 Q. Oh, he was there. I'm sorry.

19 A. He just was there. There was another guy  
20 over there that he was -- I don't know if he is a  
21 real supervisor, I don't know what he is. He is  
22 some kind of a supervisor, they were both, but they  
23 were there.

24 Q. And you went in at noon?

Page 140

1 A. Went at noon.

2 Q. Did you work your whole shift?

3 A. No. I was in there 5 minutes. They told me  
4 I was suspended because I was outside smoke  
5 cigarette.

6 Q. That's why they told you you were suspended?

7 A. Yes.

8 Q. What else did they tell?

9 A. Nothing else.

10 Q. Nothing else?

11 A. Nothing else.

12 Q. Was Heather Kiernan mentioned at all?

13 A. No.

14 Q. Did they give you anything in writing?

15 A. No.

16 Q. Did you talk -- did you tell -- let me ask  
17 you this, You had been working at AMSA for several  
18 weeks prior to that, right?

19 A. Yes.

20 Q. Was that the first time you had ever gone  
21 outside to have a cigarette?

22 A. Yes, yes.

23 Q. So did you ask them, What did I do wrong?

24 A. They told me, you were outside smoke

Page 141

1 cigarette.

2 Q. And do you have an understanding as to why  
3 that was against company policy?

4 A. Yes.

5 Q. What is that?

6 A. You cannot leave the building if nobody is  
7 in there. There has to be somebody in there all the  
8 time no matter what, so I left the building, I went  
9 in the parking lot, I smoke a cigarette; that's why  
10 they suspended me.

11 Q. You testified when you come in in the  
12 morning at 7:00 in the morning nobody is there.  
13 Isn't the building empty when you come in in the  
14 morning?

15 A. The alarm is on and everything.

16 Q. So if you wanted to go outside and have a  
17 cigarette, you just need to set the alarm?

18 ATTY. ROMANTZ: Objection.

19 A. You can't set the alarm.

20 Q. Why not?

21 A. You cannot set the alarm because you need 2  
22 people and 2 code.

23 Q. When you come in in the morning do you have  
24 to open the vault?

36 (Pages 138 to 141)



Page 106

1 the way walk through, I only had one hands on her.  
 2 The right hands I always had like that, then when I  
 3 walk to the door, I take the hands off, I took my  
 4 keys, I open the door, we get in.  
 5 Q. So you had your right hand on Heather's  
 6 side?  
 7 A. Yes.  
 8 Q. And when you unlocked the door you used your  
 9 right hand?  
 10 A. Correct.  
 11 Q. And the door opened from right -- pardon me,  
 12 from left to right?  
 13 A. (No response.)  
 14 Q. Actually, let me back up. Did you have to  
 15 -- did the door open out or in?  
 16 A. I am trying to remember.  
 17 Q. I understand.  
 18 A. Yes, is open out.  
 19 Q. And did it open from the left?  
 20 A. The right.  
 21 Q. So the right to the left?  
 22 A. No, like this (indicating)  
 23 Q. Gesturing from -- the handle was on the  
 24 left-hand side of the door?

Page 107

1 A. Whatever you want to call it.  
 2 Q. The lock was on the left side of the door?  
 3 A. Yes.  
 4 Q. Okay. Thanks. You used your right hand to  
 5 do that?  
 6 A. Yes.  
 7 Q. Where was Heather standing when you were  
 8 doing that?  
 9 A. Besides me.  
 10 Q. On your left?  
 11 A. Yes.  
 12 Q. Where was your left-hand?  
 13 ATTY. ROMANTZ: Objection.  
 14 A. It was by my body.  
 15 Q. You didn't have your hand on her?  
 16 A. No, no.  
 17 Q. You opened the door?  
 18 A. Yes.  
 19 Q. When you opened the door did she say  
 20 anything to you?  
 21 A. No.  
 22 Q. She didn't say anything, I don't want to go  
 23 in there, anything like that?  
 24 A. No.

Page 108

1 Q. And while you were unlocking the door she  
 2 didn't say I don't want to go in there or anything  
 3 like that?  
 4 A. No, she don't say nothing.  
 5 Q. Prior to that time she didn't say, I don't  
 6 want to go in there?  
 7 A. No.  
 8 Q. Who was the first person to walk into the  
 9 office?  
 10 A. She did.  
 11 Q. Did you have your hand on her at that point?  
 12 A. No.  
 13 Q. Did you tell her to get in?  
 14 A. No.  
 15 Q. She just went in on her own accord?  
 16 A. Yes.  
 17 Q. And you didn't say anything to her at all?  
 18 A. No.  
 19 Q. And you followed her in?  
 20 A. Yes.  
 21 Q. And you shut door behind you?  
 22 A. I think the door shut by itself. I don't  
 23 really remember, but I think the door shut by  
 24 itself.

Page 109

1 Q. And if you could please describe for me what  
 2 the interior of the room looked like.  
 3 A. When you walk in there is a little table,  
 4 then on the left, on the left side, is file cabinet.  
 5 On the top is all kind of police car. There is a  
 6 window, and there is chairs and a desk.  
 7 Q. And when you walked in what was the next  
 8 thing that happened?  
 9 A. We started hugging and kiss, and then --  
 10 Q. When you say you started hugging, who hugged  
 11 whom?  
 12 A. We both were hugging and kiss each other,  
 13 and then --  
 14 Q. When you say kiss, was it open-mouthed?  
 15 A. Yes.  
 16 Q. Was the tongue involved?  
 17 A. Yes.  
 18 Q. Both?  
 19 A. Yes.  
 20 (Whereupon the luncheon recess was taken  
 21 from 1:00 p.m. to 2:00 p.m.)  
 22  
 23  
 24

28 (Pages 106 to 109)

04/07/2005

Francesco Ciambriello

Page 110

AFTERNOON SESSION  
EXAMINATION, cont'd

BY ATTY. McLEOD:

Q. We had left off where you had walked into the room with Ms. Kiernan and you testified that you began to hug and kiss?

A. Yes.

Q. How long did that last?

A. About 2, 3 minutes, and she said, I can't go through that, I'm a married woman. We stopped, she went in the bathroom, I went in the office where the sitting area, that's it.

Q. So it's your testimony that all you did was hug and kiss?

A. Yes.

Q. You didn't pull her shirt up?

A. No.

Q. You didn't touch her breasts?

A. No, because we were like that. Maybe my chest touch her breasts.

Q. You didn't touch her bare breasts?

A. No.

Q. You didn't bite here?

Page 112

go through this. Okay.

Q. Now the videotape would have showed you going into the office?

A. Yes.

Q. And it would have showed somebody coming out of the office?

A. Yes.

Q. And would it also have had the time stamped on the tape as the time of day?

A. Yes.

Q. So she went into the bathroom.

A. She went in the bathroom, yes.

Q. Was there a separate men's room and ladies room there?

A. Yes.

Q. Could both of them lock?

A. I have no idea. I never been in a woman bathroom. I don't know.

Q. Could you lock the men's room, do you know?

A. I don't think so, because -- no.

Q. Do you have any idea how long she was in the bathroom?

A. Two, three minutes, four minutes, no longer than that, because she come out, I was in the soda

Page 111

A. No.

Q. You didn't pull her pants down?

A. No.

Q. Penetrate her with your fingers?

A. No.

Q. Did you touch her genitals at all?

A. No, I just touch the back like that, we kiss both each other, and that's all that happening.

Q. And how long were you in the room?

A. 2, 3 minutes, because she said, I'm a married woman, you know, I can no do this. We stopped, went in bathroom, went in office, case closed.

Q. Did you, at any time, remove your penis from your pants?

A. No.

Q. Did you, at any time, take her hand and put it on your penis through your pants?

A. No.

Q. And how long were you in the office again?

A. Two, three minutes.

Q. Just two or three minutes?

A. That's it. After we started kiss each

other, then she say, I'm a married woman, I cannot

Page 113

machine, I ask him if she want soda, and she said no.

Q. Did you apologize to her at all?

A. For what reason?

Q. For kissing her, or hugging her, or taking her into the office.

ATTY. ROMANTZ: Objection.

A. No. There was no reason to apologize.

There was no reason to any apology.

Q. Why do you say that?

A. Why I say that?

Q. Mm-mm.

A. We both decide to kiss and hugging each other, why is there going to be an apology? For what reason?

Q. I'm just asking if you did.

A. No.

Q. How did she appear to you when she said to you in the office, I don't want to do this, I'm married?

A. The way she appeared to me?

Q. Yes.

A. She said she didn't want to do it, so we --

Q. But did she appear upset?

29 (Pages 110 to 113)

04/07/2005

Francesco Ciambriello

Page 114

1 A. No.

2 Q. Did she appear disappointed that she  
3 wished --

4 A. No.

5 Q. Let me finish my question. Did she appear  
6 disappointed that she couldn't continue what she was  
7 doing in the office with you?

8 A. I don't know.

9 Q. Do you think she wanted to continue what was  
10 going on in the office but couldn't, because she  
11 felt she was -- but she felt she couldn't because  
12 she was married?

13 ATTY. ROMANTZ: Objection.

14 A. I don't know.

15 Q. When she said I can't do this I'm married,  
16 what was your response?17 A. I stop. We stop. We stop. She talk -- we  
18 stopping kiss and then she say, I'm married, I can't  
19 do that anymore, I cannot do this here, so at that  
20 time we don't do nothing, so she walk away, she went  
21 to the bathroom, I walk away I go to my office. I  
22 mean the area, this area over there, whatever you  
23 want to call it, the check-in counter.

24 Q. Thank you. It was what I wanted you to call

Page 115

1 it, so that we could make sure that we are in the  
2 same -- so basically you went back to the same place  
3 you started?

4 A. Yes.

5 Q. But she was in the bathroom?

6 A. Yes.

7 Q. How long did she stay in the bathroom?

8 ATTY. ROMANTZ: Objection.

9 A. Three, four minutes, or something like that.

10 Q. And where did she go when she came out of  
11 the bathroom, if you know?

12 A. She walk in the break area.

13 Q. Break area?

14 A. (Nod.)

15 Q. Okay. Is the break area under surveillance?

16 A. Yes.

17 Q. Is the interior of the bathrooms under  
18 surveillance?

19 A. I have no clue.

20 Q. Is the hallway leading into the bathrooms  
21 under surveillance?

22 A. Yes.

23 Q. So when she went to the break room what did  
24 she do?

Page 116

1 A. She went in the break room, she stand there  
2 for a little while. I was with the soda machine  
3 getting myself a soda. I ask him if she wanted  
4 soda. She said, No, I'm all set. Then I go back in  
5 the counter and that was it.

6 Q. What time of day was this?

7 A. It could have been maybe 4:00.

8 Q. What happened next that day?

9 A. What happening?

10 Q. Yes, what happened next?

11 A. We back in the area, she made a phone call,  
12 call her friend.

13 Q. Who was that, do you know?

14 A. I believe it's Christine. She talked to  
15 Christine. She said she coming over, if she wanted  
16 to go get a bottle of wine, and Christine coming  
17 over --

18 Q. Now do you know Christine?

19 A. Yes, she work over there. She work in the  
20 money room. She worked Monday through Friday.

21 Q. She worked with you when you were there?

22 A. No.

23 Q. Did she have a different shift?

24 A. It's a different area.

Page 117

1 Q. A different area, okay. So what happened  
2 next?3 A. She come in, Christine come in in the  
4 parking lot, Heather saw with the camera, and she  
5 went outside and gave her the money probably for the  
6 wine, or they were talking. I don't know. I was  
7 inside; I can't hear what it was going on.8 Q. Let me ask you, when someone is calling --  
9 well, let me ask you, when Heather Kiernan was  
10 calling out to her friend, was she using an AMSA  
11 phone?

12 A. Yes.

13 Q. Is there any special permission she needed  
14 to obtain from you to use the outside phone?

15 A. No, no permission.

16 Q. Any employee can use an AMSA phone for  
17 personal reasons?

18 A. Yes.

19 Q. They don't need permission from you?

20 A. No.

21 Q. So you saw Christine's car pull into the  
22 parking lot on the camera?

23 A. Yes.

24 Q. And Heather went out?

30 (Pages 114 to 117)

04/07/2005

Francesco Ciambriello

Page 118

1 A. Heather went outside.  
 2 Q. You had to let her out, though, correct?  
 3 A. Correct.  
 4 Q. Was that through a buzzer? Did you have to  
 5 buzz her out, or did you have to go over and  
 6 physically --  
 7 A. No, buzz her out.  
 8 Q. So you let Heather out?  
 9 A. Yes.  
 10 Q. How long was Heather in the parking lot with  
 11 Chris?  
 12 A. A couple of minutes, 2, 3 minutes, no more  
 13 than that.  
 14 Q. Did you watch them on the video camera?  
 15 A. Yes.  
 16 Q. Did you see Heather doing anything, or --  
 17 A. No.  
 18 Q. Did you see her reach into her pocket?  
 19 A. No.  
 20 Q. Did you see her give Christine anything?  
 21 A. No.  
 22 Q. And then what happened next after you saw  
 23 them -- well, actually, let me back up. Did Heather  
 24 ever get into the car with Christine?

Page 119

1 A. No.  
 2 Q. Did Christine ever get out of her car?  
 3 A. I don't remember.  
 4 Q. What then happened next after you saw them  
 5 talking?  
 6 A. Christina left, she come back inside --  
 7 Q. You buzzed her in?  
 8 A. I buzzed her in. She come back inside and  
 9 then Christine come back after a little while, and  
 10 then they both went -- she went outside and smoke  
 11 cigarette.  
 12 Q. Who is she? You have got two she's now.  
 13 A. Heather. When Christine come back from  
 14 store, Heather went outside to smoke a cigarette  
 15 with her.  
 16 Q. With Christine?  
 17 A. Christine.  
 18 Q. How much time had elapsed between Christine  
 19 going to the store and her coming back?  
 20 A. 15, 20 minutes.  
 21 Q. Did Christine have anything in her hand when  
 22 she arrived at AMSA?  
 23 A. No, she didn't have nothing.  
 24 Q. Did Christine come into the building before

Page 120

1 her and Heather were smoking outside?  
 2 A. No.  
 3 Q. Did she come into the building after?  
 4 A. Yes.  
 5 Q. How long were her and Heather smoking  
 6 outside?  
 7 A. Few minutes.  
 8 Q. Do you know how many cigarettes they  
 9 smoked?  
 10 A. I have no idea.  
 11 Q. At some point you went out to join them, did  
 12 you not?  
 13 A. Yes.  
 14 Q. Was it during that smoking break that you  
 15 did?  
 16 A. No.  
 17 Q. It was during another one?  
 18 A. Another one, another one.  
 19 Q. At that time you were a smoker; are you  
 20 still smoking?  
 21 A. Yes.  
 22 Q. How much did you smoke at that time?  
 23 A. How much smoke what; a day, or --  
 24 Q. Yes, a day.

Page 121

1 A. Well, 3, 4, 5 cigarette. It depends, you  
 2 know, feels, and the feeling, and the smoke. I'm  
 3 not really other smoke; I smoke when I feel like it.  
 4 Q. But you are not like a pack-a-day smoker?  
 5 A. A pack I smoke every couple of weeks.  
 6 Q. Every couple of weeks?  
 7 A. Yes. You could ask my wife.  
 8 Q. I don't need to, dude; I'm just impressed.  
 9 A. I used to smoke 2 a day, 2 pack a day.  
 10 Q. How long have you been smoking?  
 11 A. When I was 17; about 40 years.  
 12 Q. Were you ever a heavier smoker?  
 13 A. When I was young, yes.  
 14 Q. When did you start smoking less?  
 15 A. I don't understand the question.  
 16 Q. Let me ask you this, When did you start  
 17 smoking less than a pack a day?  
 18 A. About 15 years ago.  
 19 Q. Is there a time of day that you always want  
 20 to have a cigarette?  
 21 A. No.  
 22 Q. So it's not one of those things like in the  
 23 morning you have got to have one?  
 24 A. No.

31 (Pages 118 to 121)



Page 126

1 behavior when Christine came back?  
 2 A. No.  
 3 Q. Everything seemed fine?  
 4 A. No.  
 5 Q. No concerns?  
 6 A. No.  
 7 Q. You had no worries?  
 8 A. No. Why I have a worry?  
 9 Q. I'm just asking the question, okay?  
 10 A. No, I have no worry.  
 11 Q. When was your shift over that night?  
 12 A. Between 7:00, 8:00.  
 13 Q. Did you leave the facility at the same time  
 14 Heather did?  
 15 A. Yes. Me, Christine, and Heather, all 3 we  
 16 left together, same door, same time.  
 17 Q. Do you know where they went?  
 18 A. I have no clue. They went in their car, I  
 19 went in my truck, and I went home. I don't know  
 20 where they went. I have no idea.  
 21 Q. And what did you do that evening?  
 22 A. I went home and had supper with my wife and  
 23 my mom.  
 24 Q. Your mom was visiting?

Page 127

1 A. Yes.  
 2 Q. Prior to this time, prior to that day, had  
 3 you ever touched a woman at work like you had  
 4 touched Heather that day?  
 5 A. No.  
 6 Q. No?  
 7 A. Never.  
 8 Q. And when you signed what's been marked as  
 9 Exhibit 4, the Sexual Harassment Policy, you read it  
 10 before you signed it, right?  
 11 A. Yes.  
 12 Q. And you understood it?  
 13 A. Yes.  
 14 Q. So let me ask you, Did you think that it was  
 15 appropriate for you to be touching Heather the way  
 16 you did that day?  
 17 ATTY. ROMANTZ: Objection.  
 18 A. We decided the both of us, so I had no  
 19 problem, because wasn't just my idea, it was both my  
 20 idea, so this has nothing to do with that.  
 21 Q. Well prior to the touching you two were  
 22 having discussion about her husband's sexual  
 23 behavior, weren't you?  
 24 A. Yes.

Page 128

1 Q. Did you not think that was inappropriate?  
 2 ATTY. ROMANTZ: Objection.  
 3 A. No.  
 4 Q. Why not?  
 5 A. Because she was no happy home. Her husband  
 6 no made her happy. She always was upset. She  
 7 didn't want to be with her husband, so I no have no  
 8 problem. Also it wasn't just my idea, it was both  
 9 my idea.  
 10 Q. So you were talking about your own sexual  
 11 experiences as well?  
 12 A. No, I never talk. No, no, no.  
 13 Q. You weren't talking about your marital  
 14 sexual issues or experiences, were you --  
 15 ATTY. ROMANTZ: Objection.  
 16 A. No.  
 17 Q. -- with Heather.  
 18 You say that you read Exhibit 3 --  
 19 sorry, Exhibit 4, and if I could direct your  
 20 attention towards the bottom of the page where it  
 21 says Confidential, although there is this certain --  
 22 it's this one -- there is a number of bulleted  
 23 points, and I'm just directing you beginning where  
 24 it says, While; While it is not possible to list all

Page 129

1 of those circumstances which constitute sexual  
 2 harassment, the following are some examples, and  
 3 then it lists several examples, and the one example,  
 4 the one that is second from the bottom, is  
 5 discussion of one's sexual activities; do you see  
 6 that?  
 7 A. Yes.  
 8 Q. So it was your testimony that Heather was  
 9 discussing her sexual activities about her husband,  
 10 right?  
 11 ATTY. ROMANTZ: Objection.  
 12 A. Correct.  
 13 Q. And you, when she was having these  
 14 discussions with you, you were acting as her  
 15 supervisor, correct?  
 16 ATTY. ROMANTZ: Objection.  
 17 A. Yes.  
 18 Q. And yet you took no action at all to suggest  
 19 that her discussions violated that policy that you  
 20 signed off that is marked as Exhibit 4?  
 21 ATTY. ROMANTZ: Objection.  
 22 A. I think, I'm no remember too sure, but a  
 23 couple of times I spoke to my night supervisor, his  
 24 name Chris, I don't know his last name, to talk to

33 (Pages 126 to 129)